REMARKS

Introductory Comments

The present application included claims 1-4, 8-10, 22, 28, 29 and 32-43. With this amendment, Applicant amends claims 1, 3, 9 and 22; cancels claims 10, 28, 29 and 32-43; and adds new claims 44-56 as indicated in the Listing of the Claims. Thus, with this Amendment, claims 1-4, 8, 9, 22 and 44-56 are pending in the present application. Continued examination of the application, as amended, and in view of the following remarks, is respectfully requested.

Rejections under 35 U.S.C. § 103(a)

Claims 1-3, 8-10 and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,976,082 to Wong et al. ("Wong") in view of U.S. Patent No. 5,486,999 to Mebane ("Mebane").

Claim 1 has been amended to recite: "generating ... a probability value of said individual becoming a high-encounter user of healthcare services for any reason within a prospective time span, wherein a high-encounter user makes high use of inpatient, outpatient, emergency room, or physician office healthcare services." Wong discloses a system for identifying patients at a high risk of adverse health outcomes due to congestive heart failure (CHF), and at a high risk of generating significant costs to the system (see, e.g., Wong col. 2, lines 38-45; col. 3, lines 1-7 and 42-48; and col. 13, lines 26-41). Mebane discloses a system for classifying patients using healthcare appropriately from those patients utilizing healthcare inappropriately (see, e.g., Mebane col. 1, line 46-col. 2, line 10) instead of getting treatment for underlying mental illness. In contrast, to Wong's use of adverse health outcomes and significant costs or Mebane's goal to

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classify appropriate/inappropriate use, claim 1 recites "generating ... a probability value of said individual becoming a high-encounter user of healthcare services for any reason within a prospective time span, wherein a high-encounter user makes high use of inpatient, outpatient, emergency room, or physician office healthcare services." To clarify, using Wong's cost as the dependent variable in the predictive model includes the price of the unit of care (dollars) as the metric, which has many influences including negotiated provider discounts, amount of employee co-pay or deductible, etc. An encounter by contrast, is just the simple counts of units of care. In view of Mebane, whether the use of healthcare is judged as either appropriate or inappropriate is of no consequence. The encounter has no such judgment applied to it. Neither Wong nor Mebane, either alone or in combination, teach "generating ... a probability value of said individual becoming a high-encounter user of healthcare services for any reason within a prospective time span, wherein a high-encounter user makes high use of inpatient, outpatient, emergency room, or physician office healthcare services" as recited in claim 1.

For at least these reasons, claim 1 is believed to be patentable over Wong in view of Mebane. Claims 2, 3, 8, 9 and 22 are dependent on base claim 1. Accordingly, Applicant respectfully requests that the Examiner find claims 1-3, 8, 9 and 22 allowable over Wong in view of Mebane.

Claim 3 recites: "said predetermined set of predictive factors including domains of functional ability, adherence with current medical treatment, numbers of uses of various healthcare services over past time periods, beliefs in the safety and value of healthcare services, healthcare partnering preferences and information-seeking preferences." Wong discloses a system utilizing healthcare claims records versus self-assessment questionnaire data to provide the information that form the set of predictive factors. Mebane discloses a system for generating

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predictive factors that utilizes a lifestyle practices questionnaire to distinguish between patients

seeking appropriate and inappropriate healthcare services. Neither Wong nor Mebane, either

alone or in combination, disclose use of all of these predictive factors, for example "beliefs in the

safety and value of healthcare services, healthcare partnering preferences and information-

seeking preferences" as recited in claim 3. For at least these reasons, in addition to the reasons

given above with regard to claim 1, claim 3 is believed to be patentable over Wong in view of

Mebane. Accordingly, Applicant respectfully requests that the Examiner find claim 3 allowable

over Wong in view of Mebane.

Claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over Wong and

Mebane in view of U.S. Patent No. 6,269,339 to Silver ("Silver"). As described above,

Applicant has amended independent claim 1 to recite additional limitations distinguishing over

Wong and Mebane. Claim 4 is dependent on base claim 1. Applicant respectfully submits that

the amendments to claim 1 described above also distinguish over Silver. For at least these

reasons, claim 4 is believed to be patentable over Wong and Mebane in view of Silver.

Accordingly, Applicant respectfully requests that the Examiner find claim 4 allowable.

New Claims 44-56

New claim 44 and 45 are dependent on amended base claim 1 which is believed to be

allowable, and include additional distinguishing features. For at least these reasons, Applicant

respectfully requests that the Examiner find claims 44 and 45 allowable.

New claims 46-56 include independent claim 46, and dependent claims 47-56 which are

dependent on base claim 46. Claim 46 and the claims dependent thereon include several features

which are believed to be patentable over the applied prior art. For example, some of the features

recited in claim 46 that are believed patentable over the applied references include: : "collecting ... a total number of healthcare encounters for each of the plurality of sample subjects during a predetermined time span, the total number of healthcare encounters being the sum of all uses of inpatient, outpatient, emergency room, or physician office healthcare services by the sample subject within the predetermined time span;" and "determining a dependent variable based on the total number of healthcare encounters for each of the plurality of sample subjects during the predetermined time span;" and "deriving a predictive modeling formula ... designed to determine a probability value for each individual of a plurality of individuals becoming a high-encounter user of healthcare services for any reason within a prospective time span." For at least these reasons, claim 46 is believed to be patentable. Claims 47-56 depend on claim 46 and are believed to include further patentably distinguishing features. Accordingly, Applicants respectfully request that the Examiner find claims 46-56 allowable.

Final Remarks

Claims 1-4, 8, 9, 22 and 44-56 are pending in the present application and are believed to be in condition for allowance. Such allowance is respectfully requested.

To expedite prosecution of this application for all concerned, the undersigned would appreciate the opportunity to address any questions related to these amendments or to the application in general directly in a face-to-face interview at your location and convenience with the inventors and owners hereof. Please call the undersigned to set up a time for this in person interview at 919-861-5092.

If necessary, please consider this a Petition for Extension of Time to affect a timely response. Please charge any additional fees or credits to the account of Bose McKinney & Evans, LLP Deposit Account No. 02-3223.

Respectfully submitted,
BOSE McKINNEY & EVANS, LLP

/Anthony P. Filomena/
Anthony P. Filomena
Reg. No. 44,108